

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA DEPARTMENT OF HEALTH

In the Matter of the ALS Ambulance
License Application of the City of
Woodbury, Minnesota

FINDINGS OF FACT,
CONCLUSIONS AND RECOMMENDATION

The above-captioned matter came on for hearing before Administrative Law Judge Jon L. Lunde commencing at 7:30 p.m. on Monday, June 26, 1995 at the Woodbury City Hall in Woodbury, Minnesota. The hearing was held pursuant to a Notice of Completed Application and Notice of and Order for Hearing dated April 25, 1995. Three individuals appeared at the hearing in support of the City's Application.

Greg Orth, Chief of Police, Woodbury Ambulance, 2100 Radio Drive, Woodbury, Minnesota 55125, appeared on behalf of the City of Woodbury, Woodbury Ambulance (City or Applicant). No written comments relating to the City's application were filed with the Administrative Law Judge on or before the June 7, 1995 deadline set by the Commissioner of Health (Commissioner), and no petitions for intervention in this proceeding were filed with the Administrative Law Judge on or before the May 29, 1995 deadline set by the Commissioner. The record closed at the conclusion of the hearing on June 26.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of Health will make the final decision after reviewing the record and may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Anne M. Barry, Acting Commissioner of Health, 717 Delaware Street, Southeast, Minneapolis, Minnesota 55414, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue in this proceeding is whether the City's application to upgrade its ambulance license from basic life support to advanced life support throughout its primary service area should be approved under Minn. Stat. § 144.801, subd. 3(g) (1994).

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Woodbury Ambulance Council (WAC), a nonprofit corporation, is currently licensed to provide basic life support (BLS) ambulance services within a primary service area (PSA) which is coterminous with the corporate limits of the City of Woodbury, Minnesota. The Woodbury fire department currently provides emergency medical services within the PSA under WAC's license.

2. The City and WAC conducted a study of emergency medical services within the City of Woodbury. When the study was completed, both parties determined that the City of Woodbury should assume responsibility for ambulance services within the Woodbury city limits. It was also concluded that the City should upgrade ambulance services to an ALS level and that emergency services would be provided by the Woodbury Police Department utilizing full-time police officers supported by on-call firefighters.

3. Following a public hearing on April 28, 1993, the City Council voted unanimously to adopt and implement the study. At subsequent budget hearings for 1994, the City Council also voted to fund implementation of ALS ambulance services within the city limits.

4. On December 23, 1994, the City filed an application with the Department to obtain an ALS license within the Woodbury city limits. Ex. 6. On April 25, 1995, the Commissioner determined that the application was complete and ordered that a public hearing be held on June 26, 1995 to consider the application. Notice of the hearing was published in the State Register on May 8, 1995 (9 S.R. 2225) and in the Washington County Bulletin—Woodbury Edition on May 17 and 24, 1995. Exs. 2 and 3. The Commissioner sent notice of the completed application to the Washington County Board and to each community health board governing body of regional emergency medical services systems, ambulance services and municipalities in the area which will be served by the City of Woodbury under its application.

5. The City's application, if approved, will not result in a change in WAC's current primary service area. At the present time, HealthEast Corporation is also licensed by the Department to provide basic ambulance service in that part of the City lying west of the Interstate 494. See Ex. 7. However, by letter dated February 24, 1995, HealthEast Transportation notified the Department that it is willing to have its license amended to eliminate its authority to serve any portion of the City of Woodbury. Ex. 6.

6. The City's ambulances will be based at 2100 Radio Drive in Woodbury. In addition, it will operate two substations: at 6301 Upper Afton Road and 6975 Thames Road. Ambulances will be dispatched by the Washington County Sheriff. The ambulances will all be equipped with the Regional Hospital frequency 155.325, the Statewide Hospital frequency 155.340 and the Metro Hospital frequency 155.385.

7. The City's affiliated medical center will be the St. Paul Ramsey Medical Center located at 640 Jackson Street in St. Paul. The City has mutual aid agreements with the South Washington County Ambulance Service in Cottage Grove and the Capitol City Mutual Aid Association. Under those agreements, the City will have backup coverage for its services.

8. The City of Woodbury has approximately 28,000 residents and 20,000 visitors at any given time. Its population is growing at a rapid rate. It anticipates 975 ambulance runs during its first year of operation: 341 advanced runs and 634 basic runs. The average response time for its ambulance service is expected to be four minutes. The maximum response time to serve the most distant point in its PSA will be seven minutes.

9. Currently, the average patient charge for BLS runs in Woodbury is approximately \$300. During its first year of operation, the City projects that its ALS charges will be \$500 and its BLS charges \$300. Only 17 percent of those charges are paid directly by patients.

10. Woodbury is one of the few communities in the metropolitan area which does not have an ALS ambulance service. Most Woodbury residents (76 percent) want ALS services available to them. Approving the City's application to provide ALS services will have a positive impact on mortality and morbidity due to the improved training and services which will be available to Woodbury residents and visitors. The ability to improve the survival rate of patients experiencing a heart attack will significantly improve if the City's application is granted. There are two reasons for this. First, police paramedics will provide quicker response to the scene of a medical emergency. These units will be equipped with the latest emergency medical equipment and will be in service at all times. By having police paramedics respond directly to the scene, as much as two to three minutes can be saved in the initial response time. Second, paramedics will have better equipment, drugs, and a higher level of training than the current BLS provider. This will also benefit patients in need of emergency services.

11. The City's application is consistent with the Washington County Community Health Plan. Nothing in the plan purports to prohibit the improvement in emergency medical services within the county. The application is also consistent with the Minnesota State EMS Plan and has the support of the Washington County Board.

12. The City projects start-up costs of approximately \$300,000. These costs are necessary to upgrade equipment and hire and train new personnel.

13. The City will provide 24-hour emergency services. Eleven new employees have been hired to become paramedics. Six are currently in training and five more will begin training this fall.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Commissioner of the Minnesota Department of Health and the Administrative Law Judge have authority to consider the license application filed by the City of Woodbury under Minn. Stat. §§ 14.50 and 144.802 (1994).

2. Proper notice of the application and of the hearing were given in full compliance with the provisions of Minn. Stat. § 144.802, subd. 3 (1994).

3. The hearing notice was proper in form and content and the Department and the City have complied with all relevant substantive and procedural requirements of statute and rule.

4. The City has the burden of proof under Minn. Rules, pt. 1400.7300, subp. 5 (1993) to show that upgraded license is needed and will not have a deleterious affect on the public health. Matter of Rochester Ambulance Service, 500 N.W.2d 495, 498-99 (Minn. Ct. App. 1993).

5. Under Minn. Stat. § 144.802, subd. 3(g), the Administrative Law Judge is required to review and comment on the City's application and make written recommendations regarding its disposition to the Commissioner. In making those recommendations the Judge must consider and make written comments concerning the need for the service proposed based on a consideration of the following factors:

- (1) the relationship of the proposed service, change in base of operations or expansion in primary service area to the current community health plan as approved by the Commissioner under section 145A.12, subd. 4;
- (2) the recommendations or comments of the governing bodies of the counties and municipalities in which the service would be provided;
- (3) the deleterious effects on the public health from duplication, if any, of ambulance services that would result in granting the license;
- (4) the estimated effect of the proposed service, change in base of operation or expansion in primary service area on the public health;
- (5) whether any benefit accruing to the public health would outweigh the costs associated with the proposed service, change in base of operations, or expansion in primary service area.

6. The City established that obtaining an ALS license will enhance the public health in those areas of Washington County which are within its primary service area.

7. ALS ambulance services needed in this City's proposed PSA.

8. Licensing the City for ALS ambulance services will not duplicate services currently available in its PSA, jeopardize the financial viability of another ambulance service, or foster competition.

9. The benefits accruing to the public health if the City's application is granted outweigh any costs associated with its proposed upgrade.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED:

1. Commissioner of Health grant an ALS license to the City of Woodbury, Minnesota;
2. That the Commissioner of Health approve the transfer of WAC's BLS license to the City; and
3. That the Commissioner of Health accept HealthEast's decision to exclude it from providing BLS ambulance services within the City of Woodbury and restrict its license accordingly.

Dated this 28th day of June, 1995

JON L. LUNDE
Administrative Law Judge

Reported: Taped, 1 tape

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

MEMORANDUM

The City's license application request should be granted by the Commissioner on or before September 1, 1995 when the City hopes to begin operations. Approval of the license application is supported by the public, the City, and the Washington County Board. Approval will promote the health and well-being of Woodbury citizens and visitors by reducing mortality and morbidity. Patients in need of emergency services will get prompter and more effective emergency services with nominal increases in cost. Furthermore, by excluding HealthEast from that part of the City of Woodbury it is currently licensed to serve, there will be no duplication of ambulance services within the City of Woodbury and no deleterious competition. The City's application for licensure was unopposed and should be granted.

JLL